

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA, :

Plaintiff,

Case No. 3:15-cr-148
3:18-cv-403

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

WILLIAM M. APOSTELOS,

Defendant. :

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 147), to whom this case was referred pursuant to 28 U.S.C. § 636(b), which recommended Defendant's Motion to Dismiss (ECF No. 146) be granted, but with prejudice, and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that Defendant's § 2255 matter be dismissed with prejudice terming pending Motion to Dismiss (ECF No. 146) and Amended Motion to Vacate (ECF No. 139) . Defendant is DENIED a certificate of appealability and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore should not be permitted to proceed in forma pauperis.

April 23, 2019.

*s/Thomas M. Rose

Thomas M. Rose
United States District Judge